IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRI. WRIT PETITION NO. 1610 OF 2004

Laxman Babu Jadhav & Ors. ..
Petitioners.

V/s.
The State of Maharashtra ..Respondent.
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Mr.R. S. Apte with M.S. Lagu for the Petitioners.
Mr. B.H. Mehta, APP for the Respondent.

CORAM : A.S. AGUIAR, J.
DATED : 18.08.2004.

PC:-

Heard the learned Advocate for the petitioners. Petitioners pray for quashing and setting aside the order dated 1.6.2004 passed by the Addl. Sessions Judge, Gadhinglaj, Kolhapur in Sessions Case No. 4/2004, framing charges against all the accused, the petitioners herein. It is the contention of the learned Advocate for the petitioners that this Court by order dated 10.4.2002 has admitted second Appeal No. 201/2002 in respect of property involved in this case and stayed operation of the judgment and order passed by the courts below till

final hearing of the Appeal, as a result the petitioners' rights in respect of the subject matter in the present case, are subjudice before this court. It is therefore, the contention of the learned Advocate for the petitioners that the petitioners – accused cannot be convicted for the offence with which they are charged.

It is seen that the charges framed by the lower court are in violation of the stay granted by the court in the second Appeal and that the accused are charges with offences of robbery, dacoity, house tress pass committed, by putting the complainant in fear of hurt with deadly weapons as well as committing mischief causing loss of property. These offences have nothing to do with the property which is the subject matter of the Appeal and the pendency of the said civil proceedings, therefore, can be of no avail to the petitioners for preventing their prosecution for the aforesaid offences, registered against them, pursuant to the FIR lodged on the complaint of the parties , who claim to be in possession of the property. There is no merit in the application. Hence, the petition dismissed and disposed of accordingly.

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